

No. PD-1225-19

**IN THE TEXAS
COURT OF CRIMINAL APPEALS**

FILED
COURT OF CRIMINAL APPEALS
1/12/2021
DEANA WILLIAMSON, CLERK

ORLANDO BELL, Appellant

v.

THE STATE OF TEXAS, Appellee

On Appeal from the 21st District Court in Burleson County in Case No.
14,753, and the Opinion of the Seventh Court of Appeals in Case No.
07-18-00173-CR , delivered July 24, 2019

APPLICATION FOR WRIT OF HABEAS CORPUS

Wesley T. Keng
Bar I.D. No. 24039706

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979/542-0281 (Telephone)
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Attorney for Appellant

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

COMES NOW, Orlando Bell, Appellant, by and through his attorney of record, Wesley T. Keng, and moves this Court to grant a writ of habeas corpus, and in support thereof would respectfully show until this Honorable Court the following:

1. Appellant is illegally restrained and confined by the Texas Department of Criminal Justice - Institutional Division, Clements Unit, 9601 Spur 591; Amarillo, TX 79107-9606.
2. The Court of Appeals Seventh District in Amarillo, Texas rendered its opinion and judgment in *Orlando Bell v. The State of Texas*, No. 07-18-00173-CR on July 24, 2019;
3. The State filed a Motion for Rehearing on August 1, 2019, and the Court of Appeals denied that Motion on November 19, 2019;
4. The State filed a Petition for Discretionary Review with this Court on December 3, 2019, which was granted on March 11, 2020;
5. Appellant has been previously found to be indigent in this cause.
6. Article 44.04(h) of the Texas Code of Criminal Procedure states that “If a conviction is reversed by a decision of a Court of Appeals, the defendant, if in custody, is entitled to release on reasonable bail, regardless of the length of term of imprisonment, pending final determination of an appeal by the state or the defendant on a motion for discretionary review.” Additional it states that, “If the defendant requests bail after a petition for discretionary

review has been filed, the Court of Criminal Appeals shall determine the amount of bail.”

7. Appellant is entitled to release on bond since he has not been finally convicted.
8. There is no prohibition to the granting of bond pending the Court’s decision in this cause.
9. The Appellant has attended all proceedings in the lower court.
10. The Appellant will reside with his sister in Caldwell, Texas.
11. The State opposes the granting of this motion.

Therefore, Appellant respectfully requests that the Court issue the writ of habeas corpus and that Appellant be ordered discharged from illegal custody or restraint or, alternatively, that bail be set at \$5,000.00 in this cause.

Respectfully submitted,

/s/ Wesley T. Keng

Wesley T. Keng

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Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that on January 6, 2021, a true and correct copy of this Motion was served on counsel of record for the State of Texas:

John R. Messinger (via e-filing)
Assistant State Prosecuting Attorney
Bar I.D. No. 24053705
P.O. Box 13046
Austin, Texas 78711
information@spa.texas.gov
512/463-1660 (Telephone)
512/463-5724 (Fax)

/s/ Wesley T. Keng

Wesley T. Keng

VERIFICATION

STATE OF TEXAS

§

§

COUNTY OF LEE

§

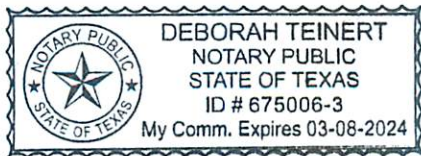
BEFORE ME, the undersigned authority, on this day personally appeared Wesley T. Keng, who after being duly sworn stated:

"I am the attorney for the applicant in the above-entitled and numbered cause, I have read the foregoing application for writ of habeas corpus and swear that all of the allegations of fact contained herein are true and correct, to the best of my knowledge."



Wesley T. Keng

SWORN AND SUBSCRIBED on this the 7th day of January, 2021.





Notary Public, State of Texas

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ORDER ON APPLICATION FOR WRIT OF HABEAS CORPUS

Before the court is the Application for Writ of Habeas Corpus. After considering the writ, the response, the evidence, and the argument of counsel, the court is of the opinion that the writ is well taken and should be granted.

It is therefore ORDERED that the Applicant's bond be set at
\$_____.

SIGNED and ENTERED on this _____ day of _____, 2021.

JUDGE PRESIDING

Automated Certificate of eService

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Wesley Keng on behalf of Wesley Keng
Bar No. 24039706
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Envelope ID: 49495674
Status as of 1/7/2021 4:11 PM CST

Associated Case Party: State Prosecuting Attorney

Name	BarNumber	Email	TimestampSubmitted	Status
Stacey Soule		information@spa.texas.gov	1/7/2021 2:26:43 PM	SENT
John Messinger	24053705	john.messinger@spa.texas.gov	1/7/2021 2:26:43 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Susan Deski		sdeski@burlesoncounty.org	1/7/2021 2:26:43 PM	SENT
John Brennan		jbrennan@burlesoncounty.org	1/7/2021 2:26:43 PM	SENT

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